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L A W Y E R S

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**DECLARATION OF EDWARD M.
BURR IN SUPPORT OF MOTION
TO FURTHER EXTEND DEADLINE
TO FILE OBJECTION TO
ALLOWANCE OF CLAIMS; AND
CERTIFICATE OF SERVICE**

Date: OST Requested January 11, 2010
Time: OST Requested 9:30 a.m.

I, Edward M. Burr, hereby declare under penalty of perjury that:

I am a principal with Sierra Consulting Group, LLC ("Sierra").

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 26, 2007.



1 I submit this declaration on behalf of the Motion to Further Extend Deadline to File
2 Objection to Allowance of Claims (the “Motion”) [DE 7474] filed by the USACM
3 Liquidating Trust (the “USACM Trust”), as successor to USA Commercial Mortgage
4 Company (“USACM”).

5 Sierra previously served as financial adviser to the Official Committee of
6 Unsecured Creditors of USA Commercial Mortgage Company (“Committee”).

7 I assisted the Committee in analyzing facts concerning these jointly administered
8 bankruptcy cases, including scheduled liabilities and proofs of claim. The Committee
9 ceased to exist on March 12, 2007, the Effective Date of the Debtors’ Third Amended
10 Joint Chapter 11 Plan of Reorganization (“Plan”), and I am now assisting the USACM
11 Liquidating Trust (“USACM Trust”) created under the Plan.

12 I make the following declaration based upon my personal knowledge, and upon the
13 records of the Debtors and the USACM Trust described in this declaration.

14 I understand that under the Plan as modified by the Confirmation Order, the
15 deadline for interested parties to object to Allowance of Claims and Equity Interests was
16 90 days after the Effective Date, or June 10, 2007. That deadline was further extended to
17 October 9, 2007 by a June 29, 2007 order [DE 4097] after a hearing held on June 22, 2007.
18 The deadline was further extended to October 15, 2007 by a bridge order that was
19 approved at a hearing held on August 23, 2007 [DE 4625]. On October 11, 2007, the
20 Court entered an order [DE 4971] extending the deadline to February 12, 2008. On
21 January 22, 2008, the Court entered an order [DE 5709] extending the deadline to June 12,
22 2008. On May 13, 2008, the Court entered an order [DE 6347] extending the deadline to
23 October 10, 2008. On December 2, 2008, the Court entered an Order [DE 6636]
24 extending the deadline to February 9, 2009. On February 19, 2009, this Court entered an
25 order [DE 6843] extending the deadline to June 9, 2009. On May 7, 2009 entered an order
26 [DE 7105] extending the deadline to October 7, 2009.

To date there have been filed:

- seven administrative claims totaling \$2,016,499 — there are no unresolved administrative claims;
 - 100 priority claims totaling \$6,975,181 — there is one unresolved priority claim for \$32,844;
 - 1669 secured claims filed totaling \$291,093,538 — all secured claims are resolved or have been converted to unsecured claims;
 - 1,241 unsecured claims totaling \$635,120,837.33 — as of December 8, 2009, there were \$215,094,144 unresolved unsecured claims remaining; and
 - 69 unknown claims totaling \$322,617 — all unknown claims have been resolved or objected to.
 - Two objections to the status of an administrative claim for \$62,496 that have been sustained, resulting in the claims being reclassified as unsecured.
- There are no unresolved administrative claims.
- Objections to 74 priority claims that have been sustained and reclassified as unsecured in aggregate of \$4,458,040. There is one unresolved alleged priority claim remaining for \$32,844.
 - Objections to 1,660 secured claims that have been sustained and reclassified as unsecured (subject to potential further objection) in the aggregate amount of \$290,201,464. There are no unresolved secured claims that assert liens on assets owned by the Trust.⁴
 - As of August 31, 2009, \$178,847,946 in unsecured claims have been allowed and \$550,014,743 have been disallowed, leaving a total of \$215,094,144 in unresolved unsecured claims.

⁴ Unfortunately, numerous direct loans secured by borrower property have not been resolved.

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- 1 • Objections to 78 “wrong debtor” claims, in the aggregate amount of
2 \$11,809,386, were sustained. The Trust believes that it has made all of the
3 available “wrong debtor” objections.
- 4 • Objections to 157 claims for lack of documentation in the amount of
5 \$23,597,974; 154 objections have been sustained totaling over \$23,147,974.
- 6 • Objections to 43 claims based on miscellaneous grounds in the amount of
7 \$87,973,801. Nineteen of these objections have been sustained totaling
8 \$53,181,903; Fourteen objections have stipulated withdrawals totaling
9 \$15,914,574; three claims totaling \$4,966,275 have been partially allowed in
10 the amount of \$2,300,000, with the remaining balance of \$2,666,275
11 disallowed; three objections resulted in claims being reclassified as
12 subordinated A-7 claims totaling \$91,216; One claim was deemed allowed
13 for \$11,358,662; and three objections totaling \$2,461,170 remain
14 unresolved.
- 15 • Objections to Direct Lenders’ claims in the amount of \$91,794,121,
16 principally on loans paid in full by the borrowers. The Court has sustained
17 \$90,687,801 of these objections, the remaining \$1,106,320 consists of
18 objections to claims based on investments in the Beastar, LLC and Beau
19 Rivage Loans and will be heard on December 18, 2009.,
- 20 • A stipulation has been executed and an order signed which provides for the
21 disallowance of the Spectrum and Weddell proofs of claim in the amount of
22 \$125,000,000.
- 23 • Thirty-two objections to claims based on the Palm Terrace lawsuit totaling
24 \$64,000,000; of which 31 claims have been disallowed in their entirety and
25 one claim was deemed partially allowed in the amount of \$50,000 with the
26



remaining portion of the claim disallowed. Thus, \$63,950,000 of the Palm Terrace Claims have been disallowed.

- 248 objections totaling \$94,236,178 to claims based on double counted claim totals.

The Trust prosecuted objections to claims, including the Loans known as Opaque Mt Edge \$7,350,000; HFA Riviera; HFA Riviera 2nd; Hasley Canyon; Fiesta Beaumont \$2.4 million; Ashby Financial Company \$7,200,000; Glendale Tower Partners, LLC; Golden State Investments II; 5252 Orange, LLC; Midvale Market Place, LLC; Urban Housing Alliance – 435 Lofts Loan; Boise/Gowen 93, LLC; LCG Gilroy, LLC; J Jireh's Corporation; One Point Street, LLC – HFA North Yonkers; Goss Road Loan; Elizabeth May Real Estate Loan; Slade Development; Wasco Investments, LLC; I-40 Gateway West, LLC 2nd; Cottonwood Hills, LLC; Standard Property Development, LLC; Meadow Creek Partners; I-40 Gateway West; Gateway Stone; Palm Springs Marquis Hotel; Roam Development; Del Valle Isleton; Preserve at Galleria; Copper Sage Commerce I; 3685 San Fernando Road; Bar USA; Bay Pompano Beach; Beastar, LLC; Beau Rivage; Clear Creek; La Hacienda; Rio Rancho Business Park; and Shamrock Tower. The Trust has other adversary proceedings pending that constitute claims objections.

Further, as the Trust has received information from claimants, it has entered into stipulations for the allowance and disallowance of priority and unsecured claims. Conversely, some claimants have stipulated to either withdraw their claims or have them reclassified as unsecured claims upon discussion with the USACM Trust's counsel.

Not all of the claims objections can be resolved through motions. The Court has ordered that the Trust's objection to claim 1366 of Los Valles Land & Golf, LLC be consolidated with a related adversary proceeding filed by the Trust against Los Valles and its guarantor, Dan S. Palmer, Jr.

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1 USACM Trust has 99 direct lender loans on record for which investors have filed a
2 proof of claim asserting money owed. To date USACM Trust has objected to proofs of
3 claims based on 39 of these loans for having been repaid in full. There are additional paid
4 in full loans that also have amounts scheduled for unremitted principal. USACM Trust
5 has objected to the proofs of claims based on these loans, USACM Trust has objected to
6 the difference between the amount asserted on the proof of claim and the predetermined
7 amount allowed as an unsecured claim for the subject loan. There will be an additional 60
8 direct lender loans outstanding after these loans are resolved, the majority of these loans
9 are being serviced by Compass Financial. USACM Trust has been unable to obtain the
10 status of these outstanding loans from Compass Financial.

11 I make this declaration under penalty of perjury of the laws of the United States of
12 America on December 8, 2009.

13 By /s/ Edward M. Burr
14 Edward M. Burr
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Copy of the foregoing served on
December 18, 2009, via e-mail or first
class postage prepaid U.S. Mail to all
parties listed on the Post Effective Date
Service List on file with this Court:

s/Marilyn Schoenike
Marilyn Schoenike
Lewis and Roca LLP